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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jack A. Parise

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04/18/2006

SEYFARTH SHAW LLP
55 E. MONROE STREET
SUITE 4200
CHICAGO, IL 60603-5803

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,985	Applicant(s) PARISE ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20,23,24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 17-20,23,24 and 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “support” [claim 30] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 30 fails to sufficiently recite the interconnection of the claimed elements to positively position and define a method of securing tools so that an arrangement is defined which is able to function as claimed i.e., as presently claimed, the locker is not interrelated to the cabinet – the locker is attached to a “support”, but the claim does not link the “support” to the cabinet. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 17-19 & 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little [U.S. Patent No. 542,341] in view of Boesvert [U.S. Patent No. 5,245,801]. Little (figures 1-2) teaches the use a cabinet (viewed as member A for example or the right section of member B) and a locker (viewed as member B or the left section of member B) provided on an outside of the cabinet (fig. 1), the locker having an open bottom with a side-access doorway (both elements depicted in fig. 1) to facilitate movement of a cart (C) into the locker through the doorway; and further

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teaches of rolling the cart into the locker through the doorway. Little teaches applicant's inventive steps as disclosed above, but does not specifically show "tools" in use with the assembly or show the doorway as being closable by a lockable door. As to the incorporation of tools, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute/vary items or contents associated with the structures of the prior art since varying the contents/items for which the structures may be associated with can change depending upon the fluctuating personal preferences or needs of the user. Since the "tools" are not functionally or structurally related in a new or unobvious way to the structures upon which they are associated, the "tools" will not distinguish the invention from the prior art in terms of patentability. As to the door, Boesvert (figures 1-9) is cited as an evidence reference to show that it was known in the art to provide an "open-bottom locker" (10) with a lockable door (21) having a lock (23,24) for closing off a side-access doorway thereby concealing and securing a rolling structure (18) placed within the locker. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a lockable door on the locker of Little as taught by Boesvert because this arrangement would allow Little to conceal the movable cart within the locker in an esthetically and pleasing manner while restricting access to the cart to all but the authorized user. As to claim 18, the combined prior art teach the use of opening the door and removing the cart. As to claim 19, the cabinet (right section of B) includes rollers (right side of fig. 1), and the assembly can be moved so that the cabinet and locker and cart can be moved together. As to claims 23-24, the locker is attached to the cabinet.

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6. Claims 17, 20 & 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlecek et al., [U.S. Patent No. 5,443,311] in view of British publication 477,158 [known hereafter as GB`158]. Kadlecek (figures 1-6) teaches the use of a tool cabinet (11) for securing tools, and a locker (45) suspended from and connected with the tool cabinet, the locker having an interior space in which objects (drawers for example) may be moved into and out of, and a side opening (opening for drawers) for providing access into the interior space. A tool may be associated with the object and the object may be moved into and out of the space as readily apparent to the examiner. Kadlecek teaches applicant's inventive steps as disclosed above, but does not show the locker as having an "open bottom" or show the object as being a cart. GB`158 (figures 1-2) is cited as an evidence reference to show that a locker having an open bottom, a doorway, doors for closing the doorway and a cart to be moved in and out of the locker was known in the art. Accordingly, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the locker of Kadlecek with a locker having the characteristics provided by GB`158, since this arrangement would enhance the usage of Kadlecek's tool cabinet since the addition of the cart would increase functionality of the assembly due to the carts ability to be moved both as a unit with the cabinet and locker and individually depending upon the needs or application of the user. As to claim 20, the locker further includes a retractable shelf (broadly viewed as the bottom of 13 for example) and a storing device (broadly viewed as the side frame members of 13 for example) on the shelf, wherein the shelf with the device can be retracted when the doors are open. As to claim 28, a tool may be placed on the cart, the cart may be

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moved outside of the locker, and the cart may be housed in the interior space of the locker as readily apparent to the examiner.

7. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlecek et al., in view of British publication 477,158 and further in view of Boesvert [U.S. Patent No. 5,245,801]. The prior art teaches applicant's inventive steps as noted above, but does not show a lock on a door for locking and unlocking purposes. Boesvert (figures 1-7) teaches the use of lock (fig. 5) for locking together doors of an open-bottom locker that encloses a cart (fig. 4). As such, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a lock to the prior art's assembly as taught by Boesvert because this arrangement would provide a means of restricting access to the cart to all but the authorized user when the cart is placed within the locker and the lock activated.

Allowable Subject Matter

8. Pending further review and consideration, Claim 26 is tentatively allowed.
9. Pending further review and consideration, Claim 30 is tentatively allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

10. Applicant's arguments with respect to the amended claims i.e., the incorporation of the locker being "suspended" from and connected to the cabinet has

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been fully considered and is persuasive. Accordingly, the previous 103(a) rejections to Springer and Little have been withdrawn.

11. Applicant's arguments with respect to 103(a) rejection of Springer in view of Boesvert have been fully considered and are persuasive. Accordingly, this rejection has been withdrawn.

12. Applicant's arguments with respect to the 103(a) rejection of Little in view of Boesvert have been fully considered but they are not persuasive. It is viewed that the prior art adequately addresses all the claimed limitations as presently set forth by applicant. Concerning applicant's remarks that Little is directed to a kitchen cabinet and therefore non-analogous art, note the following: the position is put forth that a structure is entitled to all it's potential uses unless the disclosure expressly states against such use.

13. Additionally, the examiner issues a second request for applicant to produce any evidence relating to applicant's initial disclosure concerning Matco Tools. Applicant did not respond to the Office's first request and as such, the inquiry is reproduced in its entirety: *It is noted that applicant has become aware of a product sold by Matco Tools and purported to have sent various materials i.e., an advertisement, a drawing and photographs to the office [three exhibits]. Presently, the examiner is unable to verify that these materials are of record in the instant applicant. Applicant is invited to resend these materials for the examiner's inspection with the next response.*

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). It is noted that the amendments to claim 20 [changing “cabinet” to “locker”] necessitated the new rejection of claims 17 & 20 in view of Kadlecek et al., and the British publication, while the amendments to claim 27 [“suspended from and”] necessitated the new grounds of rejection.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
April 13, 2006